

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application : **09/635,549**
Applicant(s) : **SHTEYN, Yevgeniy E.**
Filed : **8/10/2000**
Confirmation : **7153**
T.C./Art Unit : **2153**
Examiner : **LIM, Krisna**
Atty. Docket : **US-000209**

Title: **TOPICAL SERVICE PROVIDES CONTEXT INFORMATION FOR A HOME NETWORK**

Mail Stop: **APPEAL BRIEF - PATENTS**
Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL UNDER 37 CFR 41.37

Sir:

This is an appeal from the decision of the Examiner dated 12 July 2007, rejecting claims 1-16 of the subject application, the claims being at least twice rejected.

This paper includes (each beginning on a separate sheet):

- 1. Appeal Brief;**
- 2. Claims Appendix;**
- 3. Evidence Appendix; and**
- 4. Related Proceedings Appendix.**

APPEAL BRIEF

I. REAL PARTY IN INTEREST

The above-identified application is assigned, in its entirety, to **Koninklijke Philips Electronics N. V.**

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any co-pending appeal or interference that will directly affect, or be directly affected by, or have any bearing on, the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-16 are pending in the application.

Claims 1-16 stand rejected by the Examiner under 35 U.S.C. 112, first paragraph.

Claims 1-16 stand rejected by the Examiner under 35 U.S.C. 112, second paragraph.

These rejected claims are the subject of this appeal.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the rejection in the Office Action dated 12 July 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

This invention addresses providing user access to web-based services associated with a particular consumer device or group of devices. In an example embodiment (applicant's FIG. 1), a web-page on a server (120) provides content information about a context use of an apparatus (102, 104, 114, 116) (applicant's page 3, lines 17-19). The address of the web-page is provided by the apparatus, or a proxy device (202 in FIG. 2), typically via a home network (112), and the web-page is received by the apparatus or another device (208 in FIG.2) on the home network (112) that is capable of displaying or playing out the web-page (page 3, lines 19-24). For example, a user can cause a blender or its proxy to retrieve a web-page with recipes for making drinks or creamy soups (page 4, lines 5-9); other examples are provided throughout the applicant's specification.

As claimed in independent claim 1, an embodiment of the invention comprises (FIG. 1) a consumer apparatus (102) responsive to a user-input (124) for initiating retrieval of data from a server (120) based on a predetermined URL (page 8, lines 9-11) or an identifier thereof (page 8, lines 22-26; page 9, lines 5-9) associated with the apparatus (102), the data representing content information about the context of usage of the apparatus (page 3, line 30 – page 4, line 2).

As claimed in independent claim 5, an embodiment of the invention comprises (FIG. 2) a proxy device (202) for representing an apparatus (204) on a home network (112) (page 10, lines 24-29), wherein the proxy device (202) is responsive to a user-input for initiating, via a gateway (118), retrieval of data from a remote server (206) (page 10, line 29 – page 11, line 2) based on a predetermined URL or identifier thereof (page 11, lines 7-29) associated with the apparatus represented (page 11, lines 3-9), the URL or identifier thereof being stored on the home network (112) (page 11, lines 2-3).

As claimed in independent claim 11, an embodiment of the invention comprises (FIG. 1) a remote control device (108) for control of a consumer apparatus (102) included on a home network (106) (page 7, lines 22-29), wherein:

the device (108) has a key (124) dedicated to initiating (page 8, lines 7-8), via the apparatus, retrieval of data from a server (120) based on a predetermined URL (page 8, lines 9-11) or identifier thereof (page 8, lines 22-26) associated with the apparatus and stored on the home network (page 8, lines 16-26; page 9, lines 3-11); and

the data represents content information specific to the context of usage of the apparatus (page 3, line 30 – page 4, line 2).

As claimed in independent claim 13, an embodiment of this invention comprises a method of enabling a service provider to provide a service via the Internet (122) to a user of a consumer apparatus (102) having a predetermined identifier associated therewith (page 12, lines 28-29), the identifier being stored on a home network including the apparatus (page 12, line 30 – page 13, line 1), the method comprising:

- enabling the user to initiate via the apparatus sending of a request with the identifier representative of a type of the apparatus to a server on the Internet (page 8, lines 9-15); and

- based on the identifier, the server initiating user access to a web page with content information about a context of using the apparatus (page 12, line 17 – page 13, line 2).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-16 stand rejected under 35 U.S.C. 112, first paragraph.

Claims 1-16 stand rejected under 35 U.S.C. 112, second paragraph.

VII. ARGUMENT

Claims 1-11 stand rejected under 35 U.S.C. 112, first paragraph

Claims 1-4 and 11-12

The Office action asserts that "the original specification did not direct to a consumer apparatus response [sic] to a user input ... under control of (based on) ... an identifier thereof associated with the apparatus." (Office action, section 6, lines 5-7; repeated at section 7, lines 6-7.) The applicant respectfully disagrees with this assertion.

As best as the applicant can understand this assertion, the Office action asserts that the original specification does not disclose a consumer apparatus responsive to a user-input for initiating retrieval of data from a server based on an identifier of a URL associated with the apparatus, as claimed in claims 1 and 11. The applicant notes that numerous examples of consumer apparatuses that are responsive to a user-input for initiating retrieval of data from a server are presented at pages 3 and 4 of the applicant's disclosure, including the use of a remote control (108 of FIG. 1).

At page 8, lines 13-15, the applicant introduces a "variety of embodiments" for the look-up and retrieval of a web-page address. Examples of indirect retrieval of a URL based on an identifier of the URL are presented at page 8, lines 16-28 (DCM of HAVi device), page 9, lines 3-11 (UPnP mapping of IP addresses), page 11, line 28 – page 12, line 2 (URL look-up table), page 12, line 27 – page 13, line 2 (device-type identifier mapped to URL).

Because the applicant's original specification reasonably conveys to one of skill in the art that the applicant had possession of the claimed invention at the time the application was filed, and because the original specification describes the invention in such a way as to enable one skilled in the art to make and use the invention, the applicant respectfully maintains that the rejection of claims 1-4 under 35 U.S.C. 112, first paragraph, is unfounded, and should be reversed by the Board.

The Office action also asserts that "the original specification did not mention the use of ... an identifier directly to retrieve data from a server as amended claims." (Office action, section 6, lines 7-9; repeated at section 7, lines 7-8.) The applicant respectfully notes that none of the applicant's claims includes the limitation of using an identifier "directly" to retrieve data from a server, as asserted by the Examiner. Accordingly, this assertion has no bearing on the applicant's claims.

The applicant respectfully notes that, although the Examiner's assertion is inapplicable to the applicant's claim language, the scope of the applicant's claims does not preclude the direct use of an identifier by the network to retrieve data from a server, such as taught by the example at page 12, line 27 – page 13, line 2 of the applicant's specification.

Claims 5-10

Claim 5 recites a proxy device for representing an apparatus on a home network, wherein the proxy device is responsive to a user-input for initiating, via a gateway, retrieval of data from a remote server based on a predetermined URL or identifier thereof associated with the apparatus represented, the URL or identifier thereof being stored on the home network.

The Examiner asserts that "This original proxy device 202 is merely a black magic rectangular box (e.g. page 11, lines 2-3) that [is] proclaimed to perform such and such function without complying with the written description requirement." (Office action, section 6, lines 10-12; repeated at section 7, lines 8-10.) The applicant respectfully disagrees with this assertion. The applicant notes that there is no 'magic' in the applicant's invention, and particularly, no 'black magic', as asserted by the Examiner.

The applicant respectfully maintains that devices that retrieve data from a remote server are commonly known to one of skill in the art. At page 10, lines 27-29, the applicant notes that the proxy device can be as simple as a transmitter of "a beacon that is capable of sending a message to network 112 when triggered by the user". In such an example embodiment, one of skill in the art would recognize that

the network gateway, or any other suitably equipped device, needs merely to read the URL or identifier thereof from the proxy's beacon and retrieve the web-page from the corresponding address. Another example is presented at page 11, line 28 – page 12, line 20 of the applicant's specification, and concludes with:

"As is clear, the proxy can be made an extremely simple device. It merely has to enable to forward an identifier when triggered by the user so that a request with a corresponding URL can be sent over the Internet." (Applicant's page 12, lines 21-23.)

Because the applicant's original specification reasonably conveys to one of skill in the art that the applicant had possession of the claimed invention at the time the application was filed, and because the original specification describes the invention in such a way as to enable one skilled in the art to make and use the invention, the applicant respectfully maintains that the rejection of claims 5-10 under 35 U.S.C. 112, first paragraph, is unfounded, and should be reversed by the Board.

Claims 13-16

In this rejection, the Office action does not address the limitations of claims 13-16. Accordingly, the rejection of claims 13-16 under 35 U.S.C. 112, first paragraph, is unfounded, and should be reversed by the Board.

Claims 1-16 stand rejected under 35 U.S.C. 112, second paragraph

Claims 1-16

The Office action asserts that the claims are incomplete for omission of "a lookup table for converting the identifier to the URL in order to retrieve the content from a remote server". (Office action, section 8, lines 3-4.) The applicant respectfully disagrees with this assertion.

MPEP 2172.01 states:

"A claim which omits matter disclosed to be essential to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. 112, first paragraph, as not enabling. ...

"In addition, a claim which fails to interrelate essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. 112, second paragraph, for failure to point out and distinctly claim the invention."

As directed by MPEP 2172.01, claims with omissions "**disclosed to be essential to the invention**" may be rejected under 35 U.S.C. 112, *first* paragraph, as not enabling, and claims that fail to interrelate **essential elements of the invention as defined by applicant(s) in the specification** may be rejected under 35 U.S.C. 112, second paragraph, for failure to point out and distinctly claim the invention.

The applicant **does not disclose** that a lookup table for converting an identifier of a URL to the URL is **essential to the invention**, as required in MPEP 2172.01.

With regard to a rejection as not enabling: as detailed above, the applicant clearly describes the invention in such a way as to enable one skilled in the art to make and use the invention without, per se, including a lookup table, and thus the specification is enabling.

With regard to pointing out and distinctly claiming the invention: one of skill in the art will recognize that any of a number of techniques can be used to embody the applicant's claimed invention, and the scope of the claims is not limited to an embodiment that uses a lookup table to convert an identifier of a URL to the URL. The elements of each claim clearly point out and distinctly claim the subject matter that the applicant regards as the invention.

The Office action also asserts that the claims are incomplete for omission of "the conversion of the URL to an IP address in order to retrieve the content from a remote server". (Office action, section 8, lines 5-6.) The applicant respectfully disagrees with this assertion.

Although the Internet Protocol (IP) is a commonly used protocol, the applicant does not disclose that the use of IP addressing is essential to the invention, and particularly maintains that the scope of the claims does not require the use of any particular addressing scheme. As noted above, the elements of each claim clearly point out and distinctly claim the subject matter that the applicant regards as the invention.

Because the applicant's claims clearly point out and distinctly claim the subject matter that the applicant regards as the invention, the applicant respectfully maintains that the rejection of claims 1-16 under 35 U.S.C. 112, second paragraph, is unfounded.

CONCLUSIONS

Because the specification contains a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and sets forth the best modes contemplated by the inventor of carrying out his invention, the applicant respectfully requests that the Examiner's rejection of claims 1-16 under 35 U.S.C. 112, first paragraph, be reversed by the Board, and the claims be allowed to pass to issue.

Because the specification concludes with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention, the applicant respectfully requests that the Examiner's rejection of claims 1-16 under 35 U.S.C. 112, second paragraph, be reversed by the Board, and the claims be allowed to pass to issue.

Respectfully submitted

/Robert M. McDermott/
Robert M. McDermott, Esq.
Registration Number 41,508
804-493-0707

Please direct all correspondence to:

Larry Liberchuk, Esq.
Philips Intellectual Property and Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
914-333-9618

CLAIMS APPENDIX

1. A consumer apparatus responsive to a user-input for initiating retrieval of data from a server based on a predetermined URL or an identifier thereof associated with the apparatus, the data representing content information about the context of usage of the apparatus.
2. The apparatus of claim 1, the consumer apparatus configured for use and inclusion on a home network and having an Internet-access functionality through the home network, the predetermined URL or identifier thereof being stored on the home network.
3. The apparatus of claim 1, comprising a memory for storage of the URL or identifier therefor.
4. The apparatus of claim 1, wherein:
 - the apparatus has a remote control device; and
 - the device has a dedicated button for initiating the retrieval of the data.
5. A proxy device for representing an apparatus on a home network, wherein the proxy device is responsive to a user-input for initiating, via a gateway, retrieval of data from a remote server based on a predetermined URL or identifier thereof associated with the apparatus represented, the URL or identifier thereof being stored on the home network.
6. The proxy device of claim 5, wherein the data represents content information about the context of usage of the apparatus.
7. The proxy device of claim 5, wherein the proxy device is configured to store the URL or identifier therefor.

8. The proxy device of claim 7, wherein the URL or identifier thereof is programmable.

9. The proxy device of claim 5, wherein the proxy device is configured to be responsive to a wireless signal.

10. The proxy device of claim 9, wherein the proxy device is configured to transmit a further signal with a unique identifier upon receiving the signal.

11. A remote control device for control of a consumer apparatus included on a home network, wherein:

- the device has a key dedicated to initiating, via the apparatus, retrieval of data from a server based on a predetermined URL or identifier thereof associated with the apparatus and stored on the home network; and
- the data represents content information specific to the context of usage of the apparatus.

12. The device of claim 11, storing an identifier representative of a URL of a file at the server.

13. A method of enabling a service provider to provide a service via the Internet to a user of a consumer apparatus having a predetermined identifier associated therewith, the identifier being stored on a home network including the apparatus, the method comprising:

- enabling the user to initiate via the apparatus sending of a request with the identifier representative of a type of the apparatus to a server on the Internet; and
- based on the identifier, the server initiating user access to a web page with content information about a context of using the apparatus.

14. The method of claim 13, comprising creating a data base of the type per user.

15. The method of claim 13, comprising creating a data base of URLs or identifiers thereof per user.

16. The method of claim 13, comprising providing the apparatus with a URL or other identifier for a web page.

EVIDENCE APPENDIX

No evidence has been submitted that is relied upon by the appellant in this appeal.

RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any co-pending appeal or interference which will directly affect or be directly affected by or have any bearing on the Board's decision in the pending appeal.